

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

FREDERICK L. IRONS,)	
)	
Petitioner/Defendant,)	
)	CIVIL NO. 02-CV-724-DRH
vs.)	
)	CRIMINAL NO. 99-CR-30022
UNITED STATES of AMERICA ,)	
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

HERNDON, District Judge:

Before the Court is Petitioner’s application for certificate of appealability (Doc. 43), along with his notice of appeal from the Order of this Court denying Petitioner’s motion (Doc. 38) to alter or amend judgment of the denial of a prior motion to reconsider the Court’s denial of Plaintiff’s motion pursuant to 28 U.S.C. § 2255. A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” *See* 28 U.S.C. § 2253. Further, Section 2253(c)(3) provides: “The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).”

Based on Petitioner’s application for certificate of appealability, the Court finds that Petitioner has not made “a substantial showing of the denial of a constitutional right.” Accordingly, the motion for a certificate of appealability (Doc. 43) is **DENIED**.

Petitioner also seeks leave to proceed *in forma pauperis* on appeal (Doc. 41). “An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). An appellant is “acting in bad faith in the more common legal meaning of the term . . . [when he sues] . . . on the basis of a frivolous claim, which is to say a claim

that no reasonable person could suppose to have any merit.” *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000).

As explained in the order denying Petitioner’s motion to alter or amend judgment, Petitioner has received a complete round of review of his section 2255 motion already (Doc. 38, pp. 1-2), and his last two attempts in the District Court to reconsider judgment (Doc. 34) and to alter or amend the order denying that motion (Doc. 38) have been without merit. Therefore, the Court **CERTIFIES** that this appeal is not taken in good faith; accordingly, leave to proceed *in forma pauperis* on appeal is **DENIED**. Petitioner shall tender the appellate filing and docketing fee of \$455 to the Clerk of Court in this District, or he may reapply to the Seventh Circuit Court of Appeals for leave to proceed *in forma pauperis* on appeal.

IT IS SO ORDERED.

DATED: July 12, 2006

/s/ David RHerndon
DISTRICT JUDGE